

AMENDED IN SENATE APRIL 26, 2006

SENATE BILL

No. 1849

Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Florez, Morrow, and Simitian)

March 23, 2006

An act to amend Sections 6403, ~~7841~~, 8726, 8771, 22351, 22351.5, 22355, and 22452 of the Business and Professions Code, and to amend Sections 1815, 12070, and 12073 of the Insurance Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1849, as amended, Committee on Business, Professions and Economic Development. Professions and vocations: ~~geologists~~; land surveying; records retention.

(1) ~~Existing law, the Geologist and Geophysicist Act, provides for the registration and discipline of geologists and geophysicists by the Board for Geologists and Geophysicists. Existing law requires an applicant for registration as a geologist to, in addition to meeting other requirements, successfully pass a written examination that incorporates a national examination for geologists, as specified, and a supplemental California specific examination.~~

~~This bill would delete the requirement that the written examination incorporate a supplemental California specific examination.~~

(2) ~~Existing law provides for the licensing and regulation of professional engineers and land surveyors by the Board of Professional Engineers and Land Surveyors in the Department of Consumer Affairs. Existing law specifies that a person practices land surveying when he or she does or offers to do, among other things,~~

certain acts regarding the earth's surface or relative fixed objects and geodetic or cadastral surveying. Existing law makes practicing or offering to practice land surveying without legal authorization a crime.

This bill would revise the acts that constitute the practice of land surveying to include making certain determinations regarding the earth or relative fixed objects by applying geodesy, and would revise the definition of geodetic or cadastral surveying.

Because this bill would expand the definition of land surveying, the unauthorized practice or offer to practice of which is a crime, it would impose a state-mandated local program.

~~(3)–~~

(2) Existing law authorizes a county officer to destroy any nonjudicial documents or records in his or her custody if authorized by a resolution of the board of supervisors and if the records are, prior to destruction, photographed, microphotographed, or otherwise recorded for public use. Existing law requires any papers or documents to be retained by the county clerk for at least one year before they are destroyed, unless another provision of law requires that they be retained longer.

Existing law requires legal document assistants and unlawful detainer assistants to be registered with the county clerk in the county in which his or her principal place of business is located and in any other county in which he or she performs acts for which registration is required. Existing law requires process servers and professional photocopiers to be registered with the county clerk of the county in which he or she resides or has a principal place of business. Existing law requires a process server, at the time of filing an initial certificate of registration, to also submit 2 completed fingerprint cards for submission to the Department of Justice and the Federal Bureau of Investigation in order to verify that the process server has not been convicted of a felony. Existing law requires the Insurance Commissioner to certify the names of holders of bail licenses to every county clerk of the state and to make up and certify to every county clerk in the state a complete list of all admitted surety insurers.

This bill would require the county clerk to retain, for a period of at least 2 years, as specified, those registrations and other information provided by legal document assistants, unlawful detainer assistants, process servers, professional photocopiers, and the commissioner. The bill would authorize the county clerk to destroy the documents after the specified period and would provide that preservation or

reproduction of those documents would not be required. The bill would also require a process server, at the time of filing an initial certificate of registration, to submit a completed Request for Live Scan form instead of the fingerprint cards.

Because this bill would impose additional duties on county clerks, it would impose a state-mandated local program.

~~(4)–~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6403 of the Business and Professions
2 Code is amended to read:
3 6403. (a) The application for registration of a natural person
4 shall contain all of the following statements about the applicant:
5 (1) Name, age, address, and telephone number.
6 (2) Whether he or she has been convicted of a felony, or of a
7 misdemeanor under Section 6126 or 6127, or found liable under
8 Section 6126.5.
9 (3) Whether he or she has been held liable in a civil action by
10 final judgment or entry of a stipulated judgment, if the action
11 alleged fraud, the use of an untrue or misleading representation,
12 or the use of an unfair, unlawful, or deceptive business practice.
13 (4) Whether he or she has ever been convicted of a
14 misdemeanor violation of this chapter.
15 (5) Whether he or she has had a civil judgment entered against
16 him or her in an action arising out of the applicant's negligent,
17 reckless, or willful failure to properly perform his or her

1 obligation as a legal document assistant or unlawful detainer
2 assistant.

3 (6) Whether he or she has had a registration revoked pursuant
4 to Section 6413.

5 (7) Whether this is a primary or secondary registration. If it is
6 a secondary registration, the county in which the primary
7 registration is filed.

8 (b) The application for registration of a natural person shall be
9 accompanied by the display of personal identification, such as a
10 California driver's license, birth certificate, or other identification
11 acceptable to the county clerk to adequately determine the
12 identity of the applicant.

13 (c) The application for registration of a partnership or
14 corporation shall contain all of the following statements about the
15 applicant:

16 (1) The names, ages, addresses, and telephone numbers of the
17 general partners or officers.

18 (2) Whether the general partners or officers have ever been
19 convicted of a felony, or a misdemeanor under Section 6126 or
20 6127 or found liable under Section 6126.5.

21 (3) Whether the general partners or officers have ever been
22 held liable in a civil action by final judgment or entry of a
23 stipulated judgment, if the action alleged fraud, the use of an
24 untrue or misleading representation, or the use of an unfair,
25 unlawful, or deceptive business practice.

26 (4) Whether the general partners or officers have ever been
27 convicted of a misdemeanor violation of this chapter.

28 (5) Whether the general partners or officers have had a civil
29 judgment entered against them in an action arising out of a
30 negligent, reckless, or willful failure to properly perform the
31 obligations of a legal document assistant or unlawful detainer
32 assistant.

33 (6) Whether the general partners or officers have ever had a
34 registration revoked pursuant to Section 6413.

35 (7) Whether this is a primary or secondary registration. If it is
36 a secondary registration, the county in which the primary
37 registration is filed.

38 (d) The applications made under this section shall be made
39 under penalty of perjury.

(e) The county clerk shall retain these applications for a period of two years following the expiration date on the application. After this period of time, the application may be destroyed and, notwithstanding Section 26205.1 of the Government Code, preservation or reproduction of the application shall not be required.

~~SEC. 2.—Section 7841 of the Business and Professions Code is amended to read:~~

~~7841. An applicant for registration as a professional geologist shall have all the following qualifications:~~

~~(a) Not have committed any acts or crimes constituting grounds for denial of licensure under Section 480.~~

~~(b) Graduation with a major in geological sciences from college or university.~~

~~(c) Have a documented record of a minimum of five years of professional geological experience of a character satisfactory to the board, demonstrating that the applicant is qualified to assume responsible charge of this work upon licensure as a geologist. This experience shall be gained under the supervision of a geologist or geophysicist licensed in this or any other state, or under the supervision of others who, in the opinion of the board, have the training and experience to have responsible charge of geological work. Professional geological work does not include routine sampling, laboratory work, or geological drafting.~~

~~Each year of undergraduate study in the geological sciences shall count as one-half year of training up to a maximum of two years, and each year of graduate study or research counts as a year of training.~~

~~Teaching in the geological sciences at college level shall be credited year for year toward meeting the requirement in this category, provided that the total teaching experience includes six semester units per semester, or equivalent if on the quarter system, of upper division or graduate courses.~~

~~Credit for undergraduate study, graduate study, and teaching, individually, or in any combination thereof, shall in no case exceed a total of three years towards meeting the requirement for at least five years of professional geological work as set forth above.~~

~~The ability of the applicant shall have been demonstrated by the applicant having performed the work in a responsible~~

1 position, as the term “responsible position” is defined in
2 regulations adopted by the board. The adequacy of the required
3 supervision and experience shall be determined by the board in
4 accordance with standards set forth in regulations adopted by it.

5 (d) ~~Successfully pass a written examination that incorporates a~~
6 ~~national examination for geologists created by a nationally~~
7 ~~recognized entity approved by the board.~~

8 ~~SEC. 3.~~

9 *SEC. 2.* Section 8726 of the Business and Professions Code is
10 amended to read:

11 8726. A person, including any person employed by the state
12 or by a city, county, or city and county within the state, practices
13 land surveying within the meaning of this chapter who, either in
14 a public or private capacity, does or offers to do any one or more
15 of the following:

16 (a) Locates, relocates, establishes, reestablishes, or retraces the
17 alignment or elevation for any of the fixed works embraced
18 within the practice of civil engineering, as described in Section
19 6731.

20 (b) Determines the configuration or contour of the earth’s
21 surface, or the position of fixed objects above, on, or below the
22 surface of the earth by making geometric measurements or by
23 applying the principles of mathematics, geodesy, or
24 photogrammetry.

25 (c) Locates, relocates, establishes, reestablishes, or retraces
26 any property line or boundary of any parcel of land, right-of-way,
27 easement, or alignment of those lines or boundaries.

28 (d) Makes any survey for the subdivision or resubdivision of
29 any tract of land. For the purposes of this subdivision, the term
30 “subdivision” or “resubdivision” shall be defined to include, but
31 not be limited to, the definition in the Subdivision Map Act
32 (Division 2 (commencing with Section 66410) of Title 7 of the
33 Government Code) or the Subdivided Lands Law (Chapter 1
34 (commencing with Section 11000) of Part 2 of Division 4 of this
35 code).

36 (e) By the use of the principles of land surveying determines
37 the position for any monument or reference point which marks a
38 property line, boundary, or corner, or sets, resets, or replaces any
39 monument or reference point.

(f) Geodetic or cadastral surveying. As used in this chapter, geodetic surveying means performing surveys, in which account is taken of the figure and size of the earth to determine or predetermine the horizontal or vertical positions of fixed objects thereon or related thereto, points, monuments, or stations for use in the practice of land surveying or for stating the position of fixed objects, geodetic control points, monuments, or stations by California Coordinate System coordinates.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title “land surveyor” or by any other title or by any other representation that he or she practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself, herself, or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.

(k) Coordinates the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

(l) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in subdivisions (a) to (f), inclusive.

(m) Creates, prepares, or modifies electronic or computerized data in the performance of the activities described in subdivisions (a), (b), (c), (d), (e), (f), (k), and (l).

(n) Certifies the accuracy of maps or measured survey data.

Any department or agency of the state or any city, county, or city and county that has an unregistered person in responsible charge of land surveying work on January 1, 1986, shall be exempt from the requirement that the person be licensed as a land surveyor until the person currently in responsible charge is replaced.

1 The review, approval, or examination by a governmental entity
2 of documents prepared or performed pursuant to this section shall
3 be done by, or under the direct supervision of, a person
4 authorized to practice land surveying.

5 ~~SEC. 4.~~

6 *SEC. 3.* Section 8771 of the Business and Professions Code is
7 amended to read:

8 8771. (a) Monuments set shall be sufficient in number and
9 durability and efficiently placed so as not to be readily disturbed,
10 to assure, together with monuments already existing, the
11 perpetuation or facile reestablishment of any point or line of the
12 survey.

13 (b) When monuments exist that control the location of
14 subdivisions, tracts, boundaries, roads, streets, or highways, or
15 provide horizontal or vertical survey control, the monuments
16 shall be located and referenced by or under the direction of a
17 licensed land surveyor or registered civil engineer prior to the
18 time when any streets, highways, other rights-of-way, or
19 easements are improved, constructed, reconstructed, maintained,
20 resurfaced, or relocated, and a corner record or record of survey
21 of the references shall be filed with the county surveyor. They
22 shall be reset in the surface of the new construction, a suitable
23 monument box placed thereon, or permanent witness monuments
24 set to perpetuate their location if any monument could be
25 destroyed, damaged, covered, or otherwise obliterated, and a
26 corner record or record of survey filed with the county surveyor
27 prior to the recording of a certificate of completion for the
28 project. Sufficient controlling monuments shall be retained or
29 replaced in their original positions to enable property,
30 right-of-way and easement lines, property corners, and
31 subdivision and tract boundaries to be reestablished without
32 devious surveys necessarily originating on monuments differing
33 from those that currently control the area. It shall be the
34 responsibility of the governmental agency or others performing
35 construction work to provide for the monumentation required by
36 this section. It shall be the duty of every land surveyor or civil
37 engineer to cooperate with the governmental agency in matters of
38 maps, field notes, and other pertinent records. Monuments set to
39 mark the limiting lines of highways, roads, streets or
40 right-of-way or easement lines shall not be deemed adequate for

1 this purpose unless specifically noted on the corner record or
2 record of survey of the improvement works with direct ties in
3 bearing or azimuth and distance between these and other
4 monuments of record.

5 (c) The decision to file either the required corner record or a
6 record of survey pursuant to subdivision (b) shall be at the
7 election of the licensed land surveyor or registered civil engineer
8 submitting the document.

9 ~~SEC. 5.~~

10 *SEC. 4.* Section 22351 of the Business and Professions Code
11 is amended to read:

12 22351. (a) The certificate of registration of a registrant who
13 is a natural person shall contain the following:

14 (1) The name, age, address, and telephone number of the
15 registrant.

16 (2) A statement, signed by the registrant under penalty of
17 perjury, that the registrant has not been convicted of a felony; or,
18 if the registrant has been convicted of a felony, a copy of a
19 certificate of rehabilitation, expungement, or pardon.

20 (3) A statement that the registrant has been a resident of this
21 state for a period of one year immediately preceding the filing of
22 the certificate.

23 (4) A statement that the registrant will perform his or her
24 duties as a process server in compliance with the provisions of
25 law governing the service of process in this state.

26 (b) The certificate of registration of a registrant who is a
27 partnership or corporation shall contain the following:

28 (1) The names, ages, addresses, and telephone numbers of the
29 general partners or officers.

30 (2) A statement, signed by the general partners or officers
31 under penalty of perjury, that the general partners or officers
32 have not been convicted of a felony.

33 (3) A statement that the partnership or corporation has been
34 organized and existing continuously for a period of one year
35 immediately preceding the filing of the certificate or a
36 responsible managing employee, partner, or officer has been
37 previously registered under this chapter.

38 (4) A statement that the partnership or corporation will
39 perform its duties as a process server in compliance with the
40 provisions of law governing the service of process in this state.

1 (c) The county clerk shall retain the certificate for a period of
2 two years following the expiration date on the certificate. After
3 this period of time, the certificate may be destroyed and,
4 notwithstanding Section 26205.1 of the Government Code,
5 preservation or reproduction of the certificate shall not be
6 required.

7 ~~SEC. 6.~~

8 *SEC. 5.* Section 22351.5 of the Business and Professions
9 Code is amended to read:

10 22351.5. (a) At the time of filing the initial certificate of
11 registration, the registrant shall also submit a completed Request
12 for Live Scan form confirming fingerprint submission to the
13 Department of Justice and the Federal Bureau of Investigation, in
14 order to verify that the registrant has not been convicted of a
15 felony. The clerk shall utilize the Subsequent Arrest Notification
16 Contract provided by the Department of Justice for notifications
17 subsequent to the initial certificate of registration.

18 (b) If, after receiving the results of the Request for Live Scan,
19 the clerk is advised that the registrant has been convicted of a
20 felony, the presiding judge of the superior court of the county in
21 which the certificate of registration is maintained is authorized to
22 review the criminal record and, unless the registrant is able to
23 produce a copy of a certificate of rehabilitation, expungement, or
24 pardon, as specified in paragraph (2) of subdivision (a) of Section
25 22351, notify the registrant that the registration is revoked. An
26 order to show cause for contempt may be issued and served upon
27 any person who fails to surrender a registered process server
28 identification card after a notice of revocation.

29 ~~SEC. 7.~~

30 *SEC. 6.* Section 22355 of the Business and Professions Code
31 is amended to read:

32 22355. (a) The county clerk shall maintain a register of
33 process servers and assign a number and issue an identification
34 card to each process server. The county clerk shall issue a
35 temporary identification card, for no additional fee, to applicants
36 who are required to submit Request for Live Scan forms for
37 background checks to the Federal Bureau of Investigation and the
38 Department of Justice. This card shall be valid for 120 days. If
39 clearance is received from the Federal Bureau of Investigation
40 and the Department of Justice within 120 days, the county clerk

1 shall immediately issue a permanent identification card to the
2 applicant. Upon request of the applicant, the permanent
3 identification card shall be mailed to the applicant at his or her
4 address of record. Upon renewal of a certificate of registration,
5 the same number shall be assigned, provided there is no lapse in
6 the period of registration.

7 (b) The temporary and permanent identification cards shall be
8 $3\frac{3}{8}$ inches by $2\frac{1}{4}$ inches and shall contain at the top the title,
9 “Registered Process Server,” followed by the registrant’s name,
10 address, registration number, date of expiration, and county of
11 registration. In the case of a natural person, it shall also contain a
12 photograph of the registrant in the lower left corner.

13 ~~SEC. 8.~~

14 *SEC. 7.* Section 22452 of the Business and Professions Code
15 is amended to read:

16 22452. (a) The application for registration of a natural person
17 shall contain all of the following statements about the applicant:

18 (1) Name, age, address, and telephone number.

19 (2) He or she has not been convicted of a felony.

20 (3) He or she will perform his or her duties as a professional
21 photocopier in compliance with the provisions of law governing
22 the transmittal of confidential documentary information in this
23 state.

24 (b) The application for registration of a partnership or
25 corporation shall contain all of the following statements about the
26 applicant:

27 (1) The names, ages, addresses, and telephone numbers of the
28 general partners or officers.

29 (2) The general partners or officers have not been convicted of
30 a felony.

31 (3) The partnership or corporation will perform its duties as a
32 professional photocopier in compliance with the provisions of
33 law governing the transmittal of confidential documentary
34 information in this state.

35 (c) The county clerk shall retain the application for a period of
36 two years following the expiration date on the application. After
37 this period of time, the application may be destroyed and,
38 notwithstanding Section 26205.1 of the Government Code,
39 preservation or reproduction of the application shall not be
40 required.

1 ~~SEC. 9.~~

2 *SEC. 8.* Section 1815 of the Insurance Code is amended to
3 read:

4 1815. (a) The commissioner shall certify the names of
5 holders of bail agents' and bail permittees' licenses and their
6 solicitors to every county clerk of the State, together with their
7 license numbers and any other information in respect to such
8 persons as he considers advisable. He or she shall promptly upon
9 termination, for any cause, of any license, notify the respective
10 county clerks.

11 (b) The county clerk shall retain these records for a period of
12 two years. After this period of time, the active bail licensee list
13 and updates may be destroyed and, notwithstanding Section
14 26205.1 of the Government Code, preservation or reproduction
15 of those records shall not be required.

16 ~~SEC. 10.~~

17 *SEC. 9.* Section 12070 of the Insurance Code is amended to
18 read:

19 12070. (a) The commissioner shall make up and certify to
20 the county clerk of each county of the state a complete list of all
21 admitted surety insurers. The list shall set forth:

22 (1) The full corporate name of the insurer.

23 (2) The name of the state or country under whose laws the
24 insurer is organized.

25 (3) The date of the certificate of authority issued to the insurer
26 to transact surety insurance in this state.

27 (b) The county clerk shall retain these records for a period of
28 two years. After this period of time, the complete list of all
29 admitted surety insurers and updates may be destroyed and,
30 notwithstanding Section 26205.1 of the Government Code,
31 preservation or reproduction of those records shall not be
32 required.

33 ~~SEC. 11.~~

34 *SEC. 10.* Section 12073 of the Insurance Code is amended to
35 read:

36 12073. The county clerk shall keep an index or other
37 conveniently arranged record that shall show all admitted surety
38 insurers as certified to him or her by the insurance commissioner
39 and any further information as to those surety insurers as may be
40 certified to the county clerk by the commissioner. The county

1 clerk shall retain these indexes for a period of two years. After
2 this period of time, the indexes may be destroyed and,
3 notwithstanding Section 26205.1 of the Government Code,
4 preservation or reproduction of the indexes shall not be required.

5 ~~SEC. 12.~~

6 *SEC. 11.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for
8 certain costs that may be incurred by a local agency or school
9 district because, in that regard, this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the
11 penalty for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition of a
13 crime within the meaning of Section 6 of Article XIII B of the
14 California Constitution.

15 However, if the Commission on State Mandates determines
16 that this act contains other costs mandated by the state,
17 reimbursement to local agencies and school districts for those
18 costs shall be made pursuant to Part 7 (commencing with Section
19 17500) of Division 4 of Title 2 of the Government Code.